

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Application Of

LOUIS D. FALO, JR. ET AL.

Serial No. 09/030,985

Filed February 26, 1998

Entitled

INDUCTION OF TUMOR AND VIRAL
IMMUNITY USING ANTIGEN
PRESENTING CELL CO-CULTURE
PRODUCTS AND FUSION PRODUCTS

: Group Art Unit 1644

: Examiner R. Pelley

: Attorney Docket No. 214001-00648

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RESPONSE TO RESTRICTION REQUIREMENT

November 23, 1998

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Office Action dated November 16, 1998. The Office Action includes a Restriction Requirement and an Election of Species Requirement.

Restriction Requirement

The Office Action identifies four groups of claims; Group I (Claims 1-12) is directed to formulations and pharmaceutical compositions comprising a hybridoma of an antigen processing cell and either a tumor cell or a virally infected cell; Group II (Claims 13-24) is directed to formulations and pharmaceutical compositions comprising the products of co-cultures of a plurality of antigen presenting cells and a plurality of either tumor cells or virally infected cells; Group III (Claims 25-30) is directed to a method of treating a patient to stimulate a CTL response utilizing the hybridoma which is the subject of the Group I claims; and Group IV (Claims 31-36) is directed to a method of treating a patient to stimulate a CTL response using the products of co-cultures that are the subject of the Group II claims. Applicants select Group II (Claims 13-24) with traverse.

More specifically, Applicants respectfully submit that the invention embodied in Group II and the invention embodied in Group IV be considered together in this application. Both groups are directed to the same class and

subclass; thus, a search for the formulations and pharmaceutical compositions recited in the Group II claims would uncover methods of using these formulations and compositions as recited in the Group IV claims. Moreover, if the Group II claims are subsequently found allowable, methods of using the formulations and compositions recited in those claims could be rejoined pursuant to MPEP §821.04. Applicants respectfully request, therefore, that Claims 13-24 and 31-36 be considered together in the pending case.

Election of Species Requirement

The Office Action further imposes an election of species requirement. More specifically, if Group II is elected, the Office Action requires the election of a specific species of antigen presenting cell and the election of a specific species of antigenic second cell. Applicant elects dendritic cells as the antigen-presenting cell and lung carcinoma cells as the type of tumor cell. Claim 13, and Claims 17-24 are generic. Claim 14 reads on the elected species of dendritic cells and Claim 15 reads on the elected species of lung carcinoma cells.

In the event that Claims 31-36 are rejoined, as requested above, Applicants also elect dendritic cells as the antigen presenting cell and lung carcinoma cells as the tumor cell. Claims 31, 35 and 36 are generic; Claim 32 reads on the elected antigen-presenting cells, namely dendritic cells, and Claim 33 reads on the elected tumor cells, namely lung carcinoma cells.

SUMMARY

Applicants respectfully submit that the restriction requirement be reconsidered, and that Group II and Group IV be considered together in the present application.

Respectfully submitted,



Diane R. Meyers
Registration No. 38,968
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Attorney for Applicants

(412) 566-2036